



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/797,247	03/10/2004	John MacDonald	TRM A2596DIV2	5381

32047 7590 11/18/2004

GROSSMAN, TUCKER, PERREAULT & PFLEGER, PLLC  
55 SOUTH COMMERICAL STREET  
MANCHESTER, NH 03101

EXAMINER

RAYFORD, SANDRA M

ART UNIT	PAPER NUMBER
----------	--------------

1772

DATE MAILED: 11/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/797,247	<b>Applicant(s)</b> MACDONALD ET AL. <span style="float: right;">R</span>	
	<b>Examiner</b> Sandra M. Nolan	<b>Art Unit</b> 1772	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 14 October 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 25-35 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 25-35 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |                                                                                                                        |                                                                                         |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                            | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____                                                |

## **DETAILED ACTION**

### ***Claims***

1. Claims 25-35 are pending.

### ***Rejections Withdrawn***

2. The 35 USC 112 rejection of claims 25-25 as indefinite, as recited in section 3 of the 20 July 2004 office action ("the last office action") is withdrawn in view of applicants' arguments in the response dated 14 October 2004 ("the last response").

3. The 35 USC 102 rejection of claims 25-26, 28 and 32-35 as anticipated by Papencick et al (US 5,037,680) is withdrawn in view of the amendments and arguments presented in the last response.

4. The 35 USC 103 rejection of claims 27 and 29-31 as obvious over Papendick are withdrawn in view of the amendments and arguments in the last response.

### ***New Objections and Rejections***

#### **Specification**

5. The abstract of the disclosure is objected to because it does not describe the articles recited in the claims. Correction is required. See MPEP § 608.01(b).

6. The title of the invention is objected to because it is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

#### **Claim Rejections - 35 USC § 103**

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

Art Unit: 1772

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining

obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

9. Claims 25-27 and 32-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Madonia et al (US 4,546,022).

Madonia teaches a decorative trim article (col. 1, lines 8-11), that uses reduced amounts of pigment, and thus saves money, because its molded outer layer is 6 to 12 mils thick (col. 1, lines 28-41). In Figure 2, the articles have a molded base 12 of foamed (recycled/blown) plastic (col. 2, lines 35-40). In Figure 3, the outer cover layer 14 is optionally coated with a UV-protective layer 36. The recycled plastic used is inherently colored (col. 2, lines 8-14).

It fails to call the articles "thin" or to recite the claimed thickness for the cover layer.

The thickness of the layers in Madonia's articles is deemed a matter of design/engineering choice, depending upon appearance and/or other properties desired.

The use of a colored outer layer to cover the color of an underlying layer is conventional.

Art Unit: 1772

10. Claims 25-27 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP 11300770A (abstract) or JP 06255038 A (abstract) in view of Madonia.

JP 11300770 teaches door trims (title) having a skin layer over recycled internal components (last sentence).

JP 06255038A teaches automobile trim (title) having a core layer of recycled material (last sentence in the first paragraph) and a skin layer (title).

They fail to teach outer layers that hide the internal layers or the thickness of the outer layer recited.

Madonia is discussed above.

The references are analogous because they all teach articles containing coated recycled plastics.

In the absence of convincing objective evidence to the contrary, it would have been obvious to one having ordinary skill in the art at the time of the invention to employ the thin, pigmented outer layer of Madonia in the trims of either of the Japanese abstracts in order to cover the recycled plastic and to lower the cost thereof.

The motivation to employ the thin, pigmented outer layer of Madonia in the trims of the Japanese abstracts is found at col. 1, lines 28-41 of Madonia, where its molded outer layer is said to use reduced amounts of pigment, and thus saves money.

It is deemed desirable to save money when making trims in order to improve the profitability of manufacturing.

The thickness of the layers within articles suggested by the combined references is deemed a matter of design/engineering choice, depending upon appearance and/or other properties desired.

11. Claims 28-31 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hersman et al (US 5,344,183) in view of Madonia.

Hersman teaches trim shells for automotive use (col. 1, lines 6-10) made from composites having an outer, decorative layer of unreinforced plastic and an inner layer of reinforced plastic (col. 2, lines 19-33). The inner, or second, layer contains a vinyl resin matrix and recycled plastic reinforcement (col. 3, lines 61-69).

The reinforcement/matrix combination is deemed a mixture of resin components.

Madonia is discussed above.

The patents are analogous because they both teach multilayered plastic trims.

It would have been obvious to one having ordinary skill in the art at the time of the invention to employ the thin, pigmented outer layer of Madonia in the trims of Hersman in order to lower their cost.

The motivation to employ the thin, pigmented outer layer of Madonia in the trims of the Hersman is found at col. 1, lines 28-41 of Madonia, where its molded outer layer is said to use reduced amounts of pigment, and thus saves money.

It is deemed desirable to save money when making trims in order to improve the profitability of manufacturing.

The thickness of the layers within articles suggested by the combined references is deemed a matter of design/engineering choice, depending upon appearance and/or other properties desired.

12. Claims 25-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pickett et al (US 6,572,956; based on an application filed 08 April 1999) in view of Madonia.

Pickett teaches multilayered articles comprising UV-protective coatings over substrate layers (col. 2, lines 49-60). The protective coatings contain a polyester that has certain chemical features (col. 61-67). The substrate layers contain blends of resins (col. 5, lines 9-15). The coating layers contain pigments (col. 8, lines 41-43). The coating layer is 2-2,500 microns thick (col. 9, lines 5-6). The articles are used to make automotive trim (col. 9, line 32 and 34).

The thickness range recited in claim 35 for the outer layer is equivalent to 127 microns to 635 microns.

It fails to teach that the coating layer hides the substrate layer.

Madonia is discussed above.

It would have been obvious to one having ordinary skill in the art at the time of the invention to employ the thin, pigmented outer layer of Madonia in the trims of Pickett in order to lower their cost.

The motivation to employ the thin, pigmented outer layer of Madonia in the trims of the Pickett is found at col. 1, lines 28-41 of Madonia, where its molded outer layer is said to use reduced amounts of pigment, and thus saves money.

The thickness of the layers within articles suggested by the combined references is deemed a matter of design/engineering choice, depending upon appearance and/or other properties desired.

***Response to Arguments***


13. Applicant's arguments with respect to claims 25-25 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

Any inquiry concerning this communication should be addressed to Sandra M. Nolan, at telephone number 571/272-1495. She can normally be reached Monday through Thursday, from 6:30 am to 4:00 pm, Eastern Time.

If attempts to reach the examiner are unsuccessful, her supervisor, Harold Pyon, can be reached at 571/272-1498.

The fax number for patent application documents is 703/872-9306.



S. M. Nolan  
Primary Examiner  
Technology Center 1700

10797247(20041112)